

## U.S. Arms Control and Disarmament Agency

## § 604.15

(3) The United States is or may be entitled to indemnity or contribution from a third party and the Agency is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled by the Agency under the provisions of section 2672 of the Act, only after consultation with the Department of Justice when the Agency is informed or is otherwise aware that the United States or an employee, agent or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

### **§ 604.9 Referral to Department of Justice.**

When Department of Justice approval or consultation is required under § 604.8, or the advice of the Department of Justice is otherwise to be requested, the referral or request of the Agency shall be transmitted in writing to the Assistant Attorney General, Civil Division, Department of Justice by the General Counsel of the Agency or his designee.

### **§ 604.10 Investigation and examination.**

The Agency may request any other Federal agency to investigate a claim filed under section 2672 of the Act, or to conduct a physical or mental examination of the claimant and provide a report of such examination.

### **§ 604.11 Limitations.**

(a) Pursuant to the provisions of section 2401(b) of title 28 of the United States Code, a tort claim against the United States shall be forever barred unless presented in writing to the Agency within two (2) years after such claim accrues.

(b) A suit may not be filed until the claim shall have been finally denied by the Agency. Failure of the Agency to make final disposition of the claim within six (6) months after it has been presented shall, at the option of the

claimant any time thereafter, be deemed a final denial of the claim for purposes of the Act and of this part.

(c) A suit shall not be filed for a sum greater than the amount of the claim presented to the Agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the Agency, or upon allegation and proof of intervening facts, relating to amount of the claim.

### **§ 604.12 Signatures.**

The claim and all other papers requiring the signature of the claimant shall be signed by the claimant personally or, where appropriate, by a duly authorized agent or legal representative.

### **§ 604.13 Penalties.**

Section 287 of title 18, United States Code, imposes a fine of not more than \$10,000 and imprisonment for not more than 5 years, or both, for presenting false claims against the Government. Section 1001 of title 18, United States Code, imposes a fine of \$10,000 and imprisonment for not more than 5 years, or both, for making or using false, fictitious, or fraudulent statements or representations in connection with a claim against the Government. Under section 231 of title 31, United States Code, a civil penalty of forfeiture of \$2,000 plus double the amount of damages sustained by the United States (together with the costs of suit) is provided for presenting false or fraudulent claims.

### **§ 604.14 Attorney fees.**

Subject to the penalties imposed by section 2678 of the Act, no attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 20 per centum of any award, compromise, or settlement made pursuant to section 2672 of the Act.

### **§ 604.15 Disclosure of information.**

Unless otherwise authorized by law or this part, no copy of the contents of any claim file within the control of the Agency shall be furnished to any person except in the course of duty to other Federal agencies.

**§ 604.16 Final denial of claim.**

Final denial of an administrative claim shall be made by the General Counsel, or his designee, in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the Agency action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

**§ 604.17 Action on approved claims.**

(a) Payment of a claim approved under this part is contingent on claimant's execution of (1) a "Claim for Damage or Injury", Standard Form 95, (2) a claims settlement agreement, and (3) a "Voucher for Payment", Standard Form 1145, as appropriate. When a claimant is represented by an attorney, the voucher shall designate both the claimant and his attorney as payees, and the check shall be delivered to the attorney whose address shall appear on the voucher.

(b) Acceptance by the claimant, his agent, or legal representative, of an award, compromise, or settlement made under section 2672 or 2677 of the Act, is final and conclusive on the claimant, his agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and constitutes a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

**PART 605—NATIONAL SECURITY INFORMATION REGULATIONS**

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AUTHORITY: E.O. 12958 (60 FR 19825, April 20, 1995); Information Security Oversight Office Directive No. 1, 32 CFR 2001.

SOURCE: 61 FR 64286, Dec. 4, 1996, unless otherwise noted.

**§ 605.1 Basis.**

These regulations, taken together with the Information Security Oversight Office Directive No. 1 dated October 13, 1995, provide the basis for the security classification program of the U.S. Arms Control and Disarmament Agency (ACDA) implementing Executive Order 12958, "Classified National Security Information" (the Executive Order).

**§ 605.2 Objective.**

The objective of the ACDA classification program is to ensure that national security information is protected from unauthorized disclosure, but only to the extent and for such a period as is necessary.

**§ 605.3 Senior agency official.**

The Executive Order requires that each agency that originates or handles classified information designate a senior agency official to direct and administer its information security program. The ACDA senior agency official is the Deputy Director. The Deputy Director is assisted in carrying out the provisions of the Executive Order and the ACDA information security program by the Director of Security and by the Classification Adviser.

**§ 605.4 Original classification.**

(a) Definition. Original classification is the initial determination that certain information requires protection against unauthorized disclosure in the interest of national security (i.e., national defense or foreign relations of the United States), together with a designation of the level of classification.

(b) Classification designations—(1) *Top Secret* shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include, but are not limited to, armed hostilities against the United States or its allies;